

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-11274-lgb

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5 In the Matter of:

6

7 PT GARUDA INDONESIA (PERSERO) TBK AND

8 IRFAN SETIAPUTRA,

9

10 Debtor.

11 - - - - - x

12

13 United States Bankruptcy Court

14 One Bowling Green

15 New York, NY 10004

16

17 October 26, 2022

18 2:03 PM

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21 B E F O R E :

22 HON LISA G. BECKERMAN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JR

1 HEARING re Recognition Hearing

2
3 HEARING re Notice of Hearing / Notice of Filing and Hearing
4 on Verified Petition Under Chapter 15 of the United States
5 Bankruptcy Code and Notice Pursuant to Fed. R. Bankr. P.
6 9017 and Fed. R. Civ. P. 44.1

7
8 HEARING re Objection LIMITED OBJECTION, RESERVATION OF
9 RIGHTS AND REQUEST FOR CASE MANAGEMENT CONFERENCE BY THE
10 GREYLAG ENTITIES AS TO PETITION FOR RECOGNITION OF FOREIGN
11 MAIN PROCEEDING AND MOTION FOR ORDER GRANTING RELATED RELIEF
12 PURSUANT TO 11 U.S.C. 1515, 1517, 1520 AND 1521 (related
13 document(s) 7)

14
15 HEARING re Declaration OF ROBERT HONEYWELL IN SUPPORT OF
16 LIMITED OBJECTION, RESERVATION OF RIGHTS AND REQUEST FOR
17 CASE MANAGEMENT CONFERENCE BY THE GREYLAG ENTITIES AS TO
18 PETITION FOR RECOGNITION OF FOREIGN MAIN PROCEEDING AND
19 MOTION FOR ORDER GRANTING RELATED RELIEF PURSUANT TO 11
20 U.S.C. 1515, 1517, 1520 AND 1521 (related document(s) 7)

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

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17 BY: ROBERT HONEYWELL

18

19 ALSO PRESENT TELEPHONICALLY:

20 IBRAHIM SJARIEF ASSEGAF

21 PRASETIO PRASETIO

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1 P R O C E E D I N G S

2 THE COURT: Good afternoon, this is Judge
3 Beckerman, Court is now in session. I'm going to go ahead
4 and call the case and when I do, I'm going to ask for the
5 attorneys to please put their appearances on the record.
6 And then I'll ask them to please identify themselves when
7 they're speaking again for the record. Case number 22-
8 11274, PT Garuda Indonesia (Persero) Tbk. May I have
9 appearances of counsel?

10 MR. KESSLER: Good afternoon, Your Honor, Thomas
11 Kessler, Cleary, Gottlieb, Steen, & Hamilton on behalf of
12 Irfan Setiaputra and Prasetyo as foreign representatives of
13 Garuda Indonesia. And I'm here with my colleague, Rich
14 Cooper.

15 THE COURT: Thank you.

16 MR. HONEYWELL: Good afternoon, Your Honor.
17 Robert Honeywell, K&L Gates with the Greylag Entities.

18 THE COURT: Thank you. Any other appearances of
19 counsel? Okay. All right Mr. Kessler, I'm going to turn
20 over the virtual podium to you. It's obviously here for
21 your recognition. You know, motion.

22 MR. KESSLER: Yes, thank you, Your Honor. Again,
23 for the record, Tom Kessler from Cleary Gottlieb. As Your
24 Honor mentioned, we're here today on the foreign
25 representatives request for recognition of their PKPU

1 proceeding. I'm pleased to report that the request for
2 recognition is uncontested. I'm also pleased to report that
3 just this morning we were able to resolve the one limited
4 objection that was filed by the Greylag Entities, Mr.
5 Honeywell's clients. And so today's proceedings will be
6 entirely uncontested. I'll note that the revised proposed
7 form of order memorializing the agreement between Garuda and
8 the Greylag Entities was filed at ECF number 19, and we've
9 also had copies hand-delivered to Your Honor's chambers, so
10 those should be on their way as well.

11 Given that, subject to Your Honor's preference, I
12 thought what we might do is start with a very brief
13 introduction to the company, and then we'll move to the
14 request for recognition.

15 THE COURT: That is fine, Mr. Kessler.

16 MR. KESSLER: Great, before we do that, I just
17 want to do a little housekeeping. As you know, in support
18 of our request for recognition and in support of the
19 verified petition, there are three declarations. The
20 declarations of Irfan Setiaputra, Prasetio, and Ibrahim
21 Assegaf, the company's Indonesia counsel, those are at
22 dockets number three, four, and five, respectively. And I
23 just request that we move those into evidence.

24 THE COURT: Okay, that's fine, Mr. Kessler. Why
25 don't we do them one by one, just to see if there's any

1 objections. I'm sure there won't be, but nevertheless.
2 Okay, I believe we have the declaration of Prasetio, so
3 there's been a request to move that into evidence. Are
4 there any objections to that? Is there anybody that would
5 like to cross-examine Dr. Prasetio? Okay, hearing none it's
6 admitted into evidence.

7 Okay, I believe the next person was -- just give
8 me a second here. (indiscernible) a declaration here.
9 Declaration of Irfan Setiাপুত্রা, I hope I say that right,
10 I'm sure that's not right.

11 MR. KESSLER: Perfect.

12 THE COURT: As the foreign representative -- the
13 other foreign representative, and so I'll ask, are there any
14 parties who have any objection to moving that declaration
15 into evidence? Okay, hearing none would anybody like to
16 have the opportunity to cross-examine Mr. Setiাপুত্রা? Okay,
17 hearing none we will move onto the (indiscernible), give me
18 one second here. I will tell you I had enjoyed reading the
19 declaration, and especially the law of Indonesia, which I
20 had not had the opportunity to read before in my practice or
21 before since I've been on the bench, I've never had -- well,
22 I've had a lot of Chapter 15's both in practice and on the
23 bench, I have not had the benefit of Indonesian law, so it
24 was very interesting to me.

25 MR. KESSLER: Wonderful.

1 THE COURT: Okay, we have the declaration of
2 Ibrahim -- oh, I'm sure I'm going to say this wrong.
3 Sjarief Assegaf, I said that remotely right. Would anybody
4 have any objection to having that moved into -- declaration
5 moved into evidence? Okay, hearing none, would anybody like
6 to cross-examine the Declarant? Hearing none, okay that's
7 admitted into evidence. So, all three of the declarations
8 have now been admitted into evidence, Mr. Kessler.

9 MR. KESSLER: Great, thanks, Your Honor. With
10 that, I'll cede the virtual podium -- well, and I guess the
11 actual podium to my colleague, Rich Cooper.

12 MR. COOPER: Yes. Good afternoon, Judge
13 Beckerman, Rich Cooper of Cleary Gottlieb on behalf of the
14 foreign representative, nice to see you again.

15 THE COURT: Nice to see you too, Mr. Cooper.

16 MR. COOPER: Judge Beckerman, I thought what we
17 would do is just do a very quick background on Garuda, and
18 the context in which we appear before you today. Garuda was
19 incorporated in 1950. It is the national airline of
20 Indonesia. The company's core business is commercial
21 passenger business. As of July 2022, there are -- it flies
22 to 44 domestic flights and 14 international flights
23 throughout Europe, Asia, the Middle East, and Australia.

24 Like many airlines, when the global pandemic hit
25 Garuda suffered immensely. Just to give you a little bit of

1 context for that, in fiscal year 2020 as a result of the
2 pandemic, Garuda served less than 20 -- less than a third of
3 the number of airline passengers as compared to pre-pandemic
4 levels. The impact of the pandemic on Garuda proved to be
5 longer-term in -- than many other airlines due to the
6 ongoing travel restrictions which were only finally fully
7 relaxed earlier this year. Garuda, when the pandemic first
8 hit, Garuda undertook a number of steps to try to mitigate
9 the effects of the pandemic and respond to the financial
10 challenges, including liquidity challenges that it was
11 experiencing.

12 It optimized its cargo and charter service to try
13 to offset the decline in its passenger business. It
14 reduced, to the extent it could, its operational cost. It
15 received -- requested and then received from the Indonesian
16 government a \$1,000,000,000,000 rupiah loan. And it
17 conducted, on an out of Court basis a (indiscernible) of its
18 (indiscernible) trust holders that represented about
19 \$500,000,000 of indebtedness. It did that to extend the
20 maturity of those certificates and to relax its -- the
21 convenance that pertained to them.

22 Nonetheless, because the pandemic continued and
23 its financial challenges were clear, in 2021 Garuda
24 determined that it would need to have a comprehensive
25 balance sheet and an operational restructuring to

1 reconfigure its fleet, to take into account the reduction in
2 its passenger business, and to address its balance sheet and
3 liquidity issues. Garuda announced to the market and to its
4 creditors that would -- in 20 -- in mid 2021 that it would
5 undertake that effort and it retained advisors and began
6 that process. In October of 20 -- October 22nd of 2021, one
7 of Garuda's creditors filed a PKPU petition against Garuda,
8 and commenced a PKPU process in Indonesia, which is as you -
9 - as Your Honor may know now having read some of the
10 materials that we've supplied, is a Court-enforced
11 suspension of payment obligations that is regulated as part
12 of the Indonesian insolvency laws.

13 That proceeding provides for comprehensive method
14 for a debtor to reach a composition with its creditors, and
15 to restructure, if possible, its ongoing operations. I'll
16 talk just briefly about the PKPU plan itself, although we
17 recognize today that that is not in front of Your Honor.
18 And again, just to give you a bit of context about the plan
19 so that you can understand that in the context of the
20 proceeding itself. On June 17th of this year, Garuda
21 proposed to its creditors, formally the PKPU plan. It was
22 developed over an extensive process with an ad-hoc group of
23 its aircraft lessors, (indiscernible) holders, and a number
24 of other financial and non-financial creditors.

25 And working together, they agreed on the outlines

1 of a plan that would restructure over \$9,000,000,000 of
2 debt. On June 17th, the voting creditors of the PKPU
3 approved that plan, and that approval included over 95
4 percent in number headcount of creditors, and over 97
5 percent in value of voting creditors. Because there was no
6 secured debt and no secured creditors, the PKPU proceeding
7 was approved by the Court, and that occurred on June 27th,
8 10 days after the vote took place. And on October 19th of
9 this year, the Indonesian Supreme Court formally denied the
10 only appeal of the PKPU plan that had been submitted. With
11 that, Your Honor, I will turn it back to Mr. Kessler. And
12 we will continue with these proceedings.

13 THE COURT: Okay, thank you very much, Mr. Cooper.

14 MR. KESSLER: Again, just for the record, Your
15 Honor, Tom Kessler from Cleary Gottlieb. So, turning to the
16 requests for recognition set out in the verified petition we
17 believe the record amply establishes that recognition is
18 warranted under section 1517 of the Bankruptcy Code. First,
19 the PKPU proceeding is a foreign proceeding. Courts in this
20 District have held on a number of occasions that a PKPU
21 proceeding is a foreign proceeding as that term is defined
22 by section 101 of the Bankruptcy Code. And we explain in
23 the verified petition and in the Indonesian Law Declaration
24 how the proceeding satisfies that definition.

25 And that's in the verified petition at paragraphs

1 30 -- 33 to 35. Here, the PKPU unquestionably is a foreign
2 main proceeding, within the meaning of section 1502 because
3 its occurring in Indonesia, where Garuda has its center of
4 main interests. We think Garuda's COMI is squarely in
5 Indonesia. It has a registered office in Jakarta,
6 Indonesia, and therefore is entitled to the presumption of
7 COMI under section 1516(c). We submit there's no evidence
8 in the record to rebut that presumption, and in fact to the
9 contrary, all of the record evidence reinforces our position
10 that the COMI is in Indonesia, including because Indonesia
11 is the location where the majority of Garuda's assets are,
12 as well as its employees, officers, and directors.

13 Second, as evidenced by the Board minutes attached
14 to the Setiাপutra Declaration at Exhibit D, the foreign
15 representatives were duly appointed by the Board for the
16 purpose of commencing this Chapter 15 proceeding and
17 representing Garuda during the course of these proceedings.
18 And finally, the verified petition meets the requirements of
19 section 1515, including because the case was commenced by
20 the filing of a petition for recognition in accordance with
21 sections 1504 and section 1509(a). The foreign
22 representative has submitted -- representatives have
23 submitted all of the documents and other information
24 required by section 1515(b), including a copy of the
25 documents commencing the PKPU proceeding and the Board

1 minutes recognizing the foreign representative's
2 authorization to file and represent Garuda in these
3 proceedings.

4 And finally, the verified petition identifies the
5 foreign proceedings as that term is defined in section 101
6 of the code. As I mentioned at the outset, Your Honor,
7 there were no objections to the request for recognition of
8 the PKPU proceeding as a foreign main proceeding. There
9 were two aircraft lesser entities that we refer to
10 collectively as the Greylag Entities, or Greylag that filed
11 a limited objection proposing certain modifications to our
12 original proposed order. As I previewed at the outset, I'm
13 very pleased to report that we were able to agree on some
14 edits to the proposed order that have been filed, at ECF
15 number 19 in clean and in black line.

16 And again, provided to Your Honor in hard copy
17 just a bit ago. With those revised edits, the limited
18 objection of Greylag is resolved in its entirety, as you'll
19 see from the redline, the revisions are largely procedural
20 in nature. If it would be helpful to the Court, I'm happy
21 to walk through any or all of those edits or otherwise
22 answer any questions the Court may have.

23 THE COURT: Okay, thank you, Mr. Kessler. While I
24 just, obviously, printed out the order, sorry for my -- if I
25 went off my screen for a second just so I could see what was

1 resolved, because obviously there was a lot of back and
2 forth in the papers about the proposed changes to the order.
3 I guess what I was just concerned about from having read the
4 Greylag Entities objection, limited objection, was just
5 trying to understand what the concern was about this
6 proceeding, and how it interfaced or doesn't interface with
7 what's going on elsewhere.

8 Because that obviously seemed to be the biggest
9 issue, and obviously, a number of the proceedings that -- I
10 say proceedings generally, including arbitration proceeding,
11 not meaning proceeding for insolvency, because obviously
12 there's many of the proceedings that were listed in
13 Greylag's limited objection were not insolvency proceedings,
14 but in fact were other types of proceedings, either
15 arbitration proceedings going on elsewhere or proceedings
16 before the French Court, for various issues.

17 And I guess I wanted to understand how the concern
18 was that that might interact with my -- with, you know, what
19 goes on here. There was certainly some of the relief that
20 was requested, obviously no disrespect to Greylag, that
21 would have gone beyond what I think would be issues before
22 me, but I don't know enough about those litigations or
23 matters to necessarily have the right perspective on that.
24 I mean, obviously the Australian liquidation proceeding, I
25 understand what that is, but I'm not -- obviously the

1 arbitrations were confidential in nature, and my
2 understanding, and then I have obviously looked at the
3 French proceedings, I understand what was being done there
4 in terms of I guess attachment would be the word I would
5 use, for purposes of that.

6 But I don't have enough understanding of what the
7 concerns were about what might happen here and how that
8 might impact what's going on with, you know, elsewhere.

9 MR. KESSLER: Sure, Your Honor. I think some of
10 that may be better addressed by Mr. Honeywell than me, but
11 I'll start off by saying I think we all agree in principle
12 on what the scope of the automatic stay under section 362
13 has made applicable by section 1520(a), but the scope of
14 that stay is, and what it applies to, what it doesn't apply
15 to --

16 THE COURT: Mm hmm.

17 MR. KESSLER: I think the edits that we have
18 agreed to, I think are designed to eliminate what some may
19 perceive as ambiguity, whether that's to a reader of the
20 order who's unfamiliar with the provisions of the United
21 States Bankruptcy code and exactly how it works, but I think
22 we're in agreement on what the consequences of this
23 proceeding is, in particular this order and the recognition
24 that Your Honor is considering as it relates to those
25 proceedings. So, I don't know if perhaps Mr. Honeywell has

1 anything he would like to add, but I think we're aligned in
2 terms of where this proceeding stops and those unrelated
3 proceedings begin.

4 THE COURT: Okay.

5 MR. HONEYWELL: Good afternoon, Your Honor, Robert
6 Honeywell, K&L Gates, (indiscernible). Yes, I'm happy to
7 address why we filed what we did. The main concern we had
8 upfront is that some of these foreign proceedings filed by
9 the Greylag Entities and other countries having been
10 mentioned and there are provisions of the PKPU plan that we
11 are concerned may affect those other proceedings. As Mr.
12 Cooper said, the enforcement of the PKPU plan is not before
13 Your Honor today. And that was one of the main concerns we
14 had immediately is that there were references to various
15 provisions of Chapter 15 that involve additional relief.

16 THE COURT: Mm hmm.

17 MR. HONEYWELL: And, you know, specifically under
18 section 1507 and 1521, and those are normally sought for
19 additional injunctive relief or enforcement of a plan. So,
20 we reached out to Cleary just to be very, very clear that
21 that is not what's happening now. 'Cause frankly, Your
22 Honor, when we saw their papers that said nothing was
23 happening in the US, there were no creditor actions in the
24 US, the question that first popped into our heads, which we
25 put on our paper as well, why did you file this?

1 So, we just wanted to be super, super clear, and
2 you'll see that most of our proposed edits are reflected in
3 what was just filed, that recognition is one thing,
4 enforcement is another. And we've been very frank with
5 Cleary and the petitioners about our concerns about the
6 plan. And we've set that forth in our limited objection as
7 well, specifically the main number one issue is of course
8 third-party releases, which are very controversial, as you
9 know, in many cases, and they have to be looked at very
10 carefully.

11 And the number one feature of the PKPU plan that
12 jumped out at us, which is at issue in the French
13 (indiscernible) in particular is that even though the French
14 subsidiary, Garuda Indonesia Holiday France was not a debtor
15 in the PKPU case, the PKPU plan does purport to release any
16 claims against that French entity. So, that frankly is a
17 big issue that's of concern to us should the petitioners
18 ever file a motion before Your Honor to actually enforce the
19 PKPU plan. So, we just wanted to be super clear about what
20 this recognition order does and does not do.

21 And so we agreed, as you see on the language that
22 specifically limits (indiscernible) recognition and also
23 very, very carefully makes clear that the stay under 1520
24 upon recognition only applies in the United States, which of
25 course is the intent of Chapter 15. So, we had some fairly

1 surgical edits to the order, and fortunately we were able to
2 agree with the petitioners on those edits.

3 THE COURT: Okay. Understood. I have one
4 question for you, Mr. Honeywell, but this might also be a
5 question for Mr. Kessler. And my understanding is that the
6 PKPU plan was obviously appealed, and that the Supreme Court
7 denied it. I assume for Indonesian purposes, not other
8 areas, but Indonesian purposes that probably is the end of
9 it because you can't appeal above the Supreme Court, but
10 maybe that's a wrong assumption on my part.

11 MR. HONEYWELL: It's funny you should mention
12 that, Your Honor, 'cause I was going to address that as
13 well, because that was my assumption as well from a US point
14 of view. It's not in the records yet, but I have been
15 informed by our Indonesian counsel that there actually is
16 still an appeal period that is pending. And that may still
17 be taken from this. So, that final order of the Supreme
18 Court is still not final, in terms of it really being over.
19 So, that's just based on my understanding, based on what --

20 THE COURT: Okay.

21 MR. HONEYWELL: Yeah.

22 THE COURT: Understood, because, you know, you
23 were obviously expressing concerns about enforcement of the
24 plan, and while I don't know exactly 100 percent why Mr. --
25 why the debtor -- the foreign debtors decided to file a

1 Chapter 15 proceeding here, my assumption is because there
2 are a number of creditors who are clearly US based. I mean,
3 the order itself, with the issues they've worked out prior
4 to even filing the order that they worked out with you
5 recognized, you know, involved entities that are located in
6 the United States. I mean, certainly Boeing, for example,
7 is a US entity located in the US, and so there are certainly
8 a number of their creditors, presumably, or parties that
9 they have contracts with, important contracts with,
10 presumably, from the order, that have offices or operations
11 here in addition to of course the airline itself having
12 some.

13 But just, you know, the international operations,
14 but I presume that they're interfacing does, you know, does
15 involve US entities, then that's why they probably decided
16 to file a proceeding here, I'm sure with the ultimate goal
17 of seeking to enforce the plan, which I'm sure you
18 understand too, although that's not before me because
19 otherwise it wouldn't make a lot of sense as to why it would
20 be necessary, but that would be my guess, but --

21 MR. HONEYWELL: Yes, Your Honor, that's -- was my
22 guess as well, because you know, you saw on the service list
23 there were several US entities that were listed, and so
24 naturally of course the purpose of the Chapter 15 is to
25 enforce whatever you're doing abroad to your creditors in

1 the US. I will let the petitioners and Cleary speak as to
2 whether there are any other reasons, but that's not before
3 Your Honor today. Our number --

4 THE COURT: No, of course not. Understood.

5 MR. HONEYWELL: Yeah. Our number one concern of
6 course is that they're somehow going to use the Chapter 15
7 proceeding, which is designed for the US to somehow affect
8 what we're doing in other countries. So, it's a
9 jurisdictional issue, it's also an enforcement issue. We
10 just want to be super clear what is the provenance of this
11 case?

12 THE COURT: (overlapping conversation) Mm hmm. I
13 understand. Okay. All right, Mr. Kessler did you have
14 anything else that you wanted to add, or Mr. Honeywell,
15 before I go ahead and rule?

16 MR. KESSLER: Your Honor, I'll just say, just so
17 the record is clear, I think is we've all acknowledged now
18 the PKPU plan and its enforcement or what may happen to it
19 in the future is not currently before the Court.

20 THE COURT: Mm hmm.

21 MR. KESSLER: Obviously Mr. Honeywell and I
22 disagree about a variety of issues as how the PKPU plan
23 works and what it's number one or number two features may
24 be, and I look forward to engaging with him and with Your
25 Honor on that, but wanted to note for the record of course

1 that you know, we don't necessarily agree with all the
2 propositions that Mr. Honeywell has stated in respect to the
3 PKPU plan or the proceeding. But, I think we're all on the
4 same page with that, and that's all I had, Your Honor.

5 THE COURT: Okay. (overlapping conversation) for
6 me today, so --

7 MR. HONEYWELL: One bookkeeping thing, I guess. I
8 submitted the declaration too, I can re-submit it later if
9 necessary, but if there are no objections, I'll move that
10 into evidence.

11 THE COURT: Okay, I guess Mr. Kessler, do you have
12 any objection to my admitting Mr. Honeywell's declaration
13 into evidence?

14 MR. KESSLER: Certainly not.

15 THE COURT: Okay. All right. I don't believe
16 anybody else on the -- I'll ask, does anybody else have any
17 objections to admitting Mr. Honeywell's declaration? Would
18 anyone like to cross-examine Mr. Honeywell? I'm sure we
19 won't be doing that today. All right, Mr. Honeywell, your
20 declaration is admitted into evidence.

21 MR. HONEYWELL: Thank you, Your Honor.

22 THE COURT: No problem. All right, well I'm glad
23 you all were able to work out your differences for purposes
24 of today, I'm sure down the road there may be other issues,
25 but not at -- not today, so. All right, well thank you very

1 much. So, just for the record, this is my ruling. The
2 debtor is PT Garuda Indonesia (Persero) Tbk. The Court
3 finds that the debtor satisfies the requirements of section
4 109 of the Bankruptcy code, 109(a) provides that
5 notwithstanding any other provision of this section, only a
6 person that resides, has a domicile, a place of business, or
7 a property in the United States or municipality may be a
8 debtor under this title.

9 As set forth in the declaration submitted in
10 support of a verified petition, Cleary, Gottlieb, Steen &
11 Hamilton, LLP holds an unused retainer in the amount of
12 approximately \$300,000 from the debtor in a bank account in
13 New York, NY in connection with certain legal services
14 retained in respect of Garuda's restructuring.
15 Additionally, certain of Garuda's contracts and debt
16 obligations are governed by New York law. Thus the debtor
17 is qualified to be a debtor under section 109(a) of the
18 Bankruptcy Code.

19 Venue is also proper in the Southern District of
20 New York because of the debtor's property located in this
21 District. The debtor's chapter 15 case was duly and
22 properly commenced as is required under section 1504 and
23 1509(a) of the Bankruptcy Code. Pursuant to Bankruptcy code
24 section 1517, a foreign proceeding is recognized if the
25 proceeding is a foreign main proceeding or a foreign non-

1 main proceeding as defined by Bankruptcy Code section 1502.
2 The foreign representative applying for the recognition is a
3 person or a body, and the petition for recognition meets the
4 requirements of Bankruptcy Code section 1515.

5 A foreign main proceeding is a foreign proceeding
6 pending in a country where the debtor has the center of its
7 main interests. Bankruptcy Code section 1515 requires parti
8 -- presentation of a certified copy of the decision
9 commencing the foreign proceeding and appointing the foreign
10 representative. A certificate from the foreign
11 (indiscernible) existence of the proceeding and the
12 appointment of the representative, or, in the absence of one
13 or two, evidence which the Court deems sufficient to confirm
14 the existence of the foreign proceeding and appointment of
15 the foreign representative.

16 The petition must also be accompanied by a
17 statement of identifying all known foreign proceedings with
18 respect to the debtor, and if applicable, a translation of
19 the evidentiary materials into English. These requirements
20 were met by the debtor. Pursuant to section -- Bankruptcy
21 Code section 1517, a foreign main proceeding shall be
22 recognized if it is pending in a country where the debtor
23 has the center of its main interests. In the absence of
24 evidence to the contrary, the debtor's registered office is
25 presumed to be the center of the debtor's main interest, see

1 section 1516(c) .

2 The presumption in favor of the place of
3 registration can be rebutted by showing that the home had
4 office functions were carried out in a jurisdiction other
5 than where the registered office was located. See in re:
6 Avanti, 582 B.R. at page 611. To determine the debtor's
7 center of main interest Courts look at a non-exclusive list
8 of factors including the location of the debtor's
9 headquarters, a location of those who actually manage the
10 debtor, the location of the debtor's primary assets, the
11 location of the majority of the debtor's creditors or the
12 majority of the creditors who would be affected by the case,
13 and/or the jurisdiction whose law would apply to most
14 disputes.

15 See Morning Mist Holdings Ltd. V. Krys in re:
16 Fairfield Sentry Ltd., 714F.3d127 at page 137, Second
17 Circuit, 2013. Pursuant to the approval of Garuda's Board
18 memorialized in the Garuda Board of Directors minutes at the
19 meeting dated September 15th, 2022 and as acknowledged and
20 consented to by the PKPU administrators, each of the foreign
21 representatives, Irfan Setiaputra, and Dr. Prasetyo has been
22 appointed to act as the foreign representative of -- in
23 Garuda's PKPU proceeding for the purposes of this Chapter 15
24 case, and authorized to commence this Chapter 15 case.

25 Accordingly, they each are a foreign represent of

1 the debtor within the meaning of section 10124 of the
2 Bankruptcy Code. As set forth in the declaration of Ibrahim
3 Sjarief Assegaf, the debtor is the subject of a Court-
4 supervised suspension of payments proceeding known as a PKPU
5 proceeding. Pending before the Commercial Court of the
6 Central Jakarta District Court, the PKPU proceeding is a
7 foreign proceeding as defined in section 10123 of the
8 Bankruptcy Code.

9 This Court has previously recognized PKPU
10 proceedings under Indonesian law as foreign proceedings in a
11 Chapter 15 case, see as an example in re: TK Bakrie Telecom
12 Tbk, 628 B.R. 859 at page 875, Bankruptcy Court SDNY 2021.
13 A declaration was submitted as noted and admitted into
14 evidence by the foreign law expert, Mr. Assegaf. The debtor
15 is organized under the laws of Indonesia. The debtor's
16 registered office and headquarters are all located in
17 Indonesia. All of its officers and almost all of the
18 debtor's employees are located in Indonesia. Its key
19 corporate activities occur in Indonesia. It's book and
20 records are located in Indonesia. And the majority of its
21 assets are located in Indonesia.

22 Accordingly, based on the evidence that was put
23 before this Court, the debtor's center of main interest is
24 in Indonesia. Therefore, the Court finds that the PKPU
25 proceeding pending in Indonesia is a foreign main

1 proceeding. As noted previously, a limited objection to the
2 verified petition was filed by Greylag Goose Leasing, 1446
3 designated activity company, and Greylag Goose Leasing, 1410
4 designated activity company seeking changes to the proposed
5 form of order. The parties have resolved that issue with
6 the revised proposed form of order that was filed with the
7 Court just before this hearing.

8 I note that the Courts obviously considered all
9 the pleadings that were put before it, in addition to the
10 verified petition for recognition and the declarations that
11 were admitted into evidence. Obviously, the Court did read
12 the limited objection as well as the response that was filed
13 to that. Accordingly, the Court finds that the verified
14 petition for recognition satisfies the requirements of 1515
15 and I will go ahead and grant the verified petition.

16 The Court has had the opportunity of reviewing the
17 revised proposed form of order, and the changes that were
18 made to -- in various rounds, first the initial revised form
19 of order that resolved issues with respect to parties who
20 raised informal objections, including Boeing and the
21 International Air Transport Association, as well as the
22 changes -- more extensive changes that were worked out
23 previously right before this hearing and filed with the
24 Court relating to the Greylag Entities.

25 And the Court has re -- had an opportunity to

1 review the revised form of orders and will go ahead and
2 enter the second form of revised form of order.

3 MR. KESSLER: Thank you, Your Honor. We can
4 submit a word version of that order to chambers directly
5 after this hearing.

6 THE COURT: Thank you very much.

7 MR. HONEYWELL: Your Honor, quickly I conferred
8 with Cleary ahead of time, there happens to be a typo.

9 THE COURT: Oh.

10 MR. HONEYWELL: At the end of --

11 THE COURT: (overlapping conversation) Excuse me.

12 MR. HONEYWELL: Tom, do you want to mention that,
13 or --

14 MR. KESSLER: Sure, yeah, Your Honor, there's a
15 typographical error in one of the paragraphs of the order,
16 it's paragraph six. Certain language is just duplicated,
17 and so we'll delete the duplicative language at the end of
18 paragraph six. It's on page seven of the redline.

19 THE COURT: Okay. I see what you mean.

20 MR. KESSLER: Yeah. So, we'll fix that.

21 THE COURT: Okay, that's fine. Thank you.

22 MR. HONEYWELL: Thank you, Your Honor.

23 THE COURT: All right. Okay. Well, we'll wait to
24 get the revised form of order in Word and we'll go ahead and
25 enter that.

1 MR. KESSLER: Okay. Thank you very much, Your
2 Honor. I appreciate your time.

3 THE COURT: Right. Was there anything else that
4 you wanted to discuss today about the matter?

5 MR. KESSLER: Not from the Petitioners, Your
6 Honor.

7 THE COURT: Okay. Mr. Honeywell?

8 MR. HONEYWELL: No, thank you so much, Your Honor.

9 THE COURT: Okay. Well, thank you all, I'm glad
10 you were able to work some things out before the hearing.
11 Thank you all for appearing, and Court is adjourned for the
12 day.

13 MR. KESSLER: Thank you, Your Honor.

14 THE COURT: Have a nice day.

15 MR. HONEYWELL: You too.

16 MR. KESSLER: You too.

17 (Whereupon these proceedings were concluded)
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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: November 3, 2022